

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
November 8, 2000 Session

STATE OF TENNESSEE v. WILLIAM CHARLES BOGGS, JR.

**Direct Appeal from the Circuit Court for Madison County
No. 96-372 Roger A. Page, Judge**

No. W1999-01874-CCA-R3-CD - Filed March 19, 2001

Defendant William Charles Boggs was convicted by a Madison County jury of aggravated child abuse, Tenn. Code Ann. § 39-15-402, a Class A felony. The trial court sentenced Defendant as a violent 100% offender to a term of twenty-one years. Defendant's sole issue in this appeal is whether the evidence was sufficient to support his conviction. After a thorough review of the record, we affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed.

THOMAS T. WOODALL, J., delivered the opinion of the court, in which DAVID H. WELLES and JAMES CURWOOD WITT, JR., JJ., joined.

Clifford K. McGown, Jr., Waverly, Tennessee (on appeal only); George Morton Googe, District Public Defender (of counsel on appeal); and Joe H. Byrd, Jr., Jackson, Tennessee (at trial) for the appellant, William Charles Boggs.

Paul G. Summers, Attorney General & Reporter; Mark E. Davidson, Assistant Attorney General; James (Jerry) Woodall, District Attorney General; and James W. Thompson, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

I. Facts

Eric Ectincamp, a licensed paramedic, testified that on January 29, 1996 he worked for Emergency Medical Services. He was on duty that day when a 911 call came in requesting help at 1232 Hollywood Drive, Jackson, Tennessee, where a five-month-old girl reportedly had no pulse and had stopped breathing. Ectincamp arrived at 10:25 a.m. to find the infant patient, Jada, lying on the floor a few feet inside the door of the residence. Jada was barely breathing but her pulse was rapid. Ectincamp began by intubating Jada, an emergency procedure used to increase the breathing rate.

Meanwhile, he and his partner questioned the other people present to determine how to proceed with treatment. A man at the scene (later identified as Defendant) told Ectincamp that he noticed Jada was “not acting properly” when he picked her up to check on her. Jada had been sick. Defendant told Ectincamp that he “somewhat sh[ook] or stimulate[d] the child to arouse it.” When this proved unsuccessful, “they” dialed 911 for help.

Ectincamp testified that the emergency personnel simultaneously prepared Jada for transport to the hospital as they treated her. Speed was of great importance. When they arrived at Jackson General Hospital, Jada was taken to a special room designated for pediatric patients. Jada was still not breathing on her own. Dr. Pangbourne was on duty in the emergency room and assumed care of Jada at that point.

Dr. Timothy Pangbourne, an emergency medicine physician, testified that he was on duty in the emergency room at Jackson General Hospital on January 29, 1996 when the infant patient, Jada Coffman, arrived in a comatose state. She was obviously very sick. Her eyes were not open or alert. She had been intubated and was still not breathing on her own. Dr. Pangbourne further evaluated Jada’s condition. He noted that the ventilation tube was operating properly, her pupils were fixed and dilated, and her fontanel (the soft spot on the skull of very young children) was bulging and very tense. The state of the fontanel concerned him because it was extremely abnormal, indicating something was “very, very wrong up in the brain.” Dr. Pangbourne testified that a bulging fontanel usually indicated meningitis. Dr. Pangbourne continued with his examination. The abdomen, chest, ears, throat and extremities showed no signs of injury. However, when he examined the blood vessels in Jada’s retina he was shocked to discover “blood everywhere.” At this point, Dr. Pangbourne ruled out meningitis as it usually does not cause retinal hemorrhaging and is often accompanied by fever, which Jada did not have. Instead, the combination of symptoms presented by Jada’s condition suggested shaken baby syndrome (“SBS”).

Dr. Pangbourne explained that the symptoms of SBS usually included retinal hemorrhaging and intracranial injury which consisted of bleeding or increased pressure in the brain. These symptoms, along with a lack of any other evidence of physical trauma or infectious disease, were generally conclusive unless contraindicated by further evidence. Typically, SBS indicated that the baby had been held by the chest or shoulders with big/adult hands and shaken so that the baby’s head “slams back and forth.” If the shaking was sufficiently severe, the child would suffer brain injury and possibly become comatose. A less severe shaking would not be as obvious upon examination, but severe shaking usually resulted in the findings described above. Because Jada’s retinal hemorrhaging was extensive, Dr. Pangbourne opined that Jada had been severely shaken and he made arrangements to perform a CT scan. Jada was then transported by helicopter to Lebonheur Children’s Hospital in Memphis.

Dr. Pangbourne further testified that he had also examined Jada the previous day, January 28th, eighteen hours before she came into the emergency room exhibiting signs of SBS. Jada was brought in to the emergency room on Sunday, the 28th, because she had been vomiting off and on since the previous Friday morning. Her mother voiced no other complaints and no additional

abnormal symptoms were apparent at that time. Jada was awake and alert, looking just “a little sick.” Dr. Pangbourne checked Jada’s lungs, heart, neck, fontanel, ears, nose, throat, and mucous membranes. This examination revealed nothing that would indicate Jada was suffering from SBS. Everything appeared normal except that Jada’s skin showed evidence of slight dehydration. Dr. Pangbourne concluded that Jada had picked up a flu-type virus and gave her some fluids. He also gave Jada a relaxant to suppress her vomiting and prescribed her some medicine. Dr. Pangbourne did not check Jada’s eyes for retinal hemorrhage when she came in on the 28th because this is usually done only when a neurological injury is suspected. When asked his conclusion regarding the timing of Jada’s injury, Dr. Pangbourne testified that the combined results of both examinations indicated that Jada had been injured within a few hours of her second visit to the hospital on the 29th. Dr. Pangbourne further testified that even if Jada had been injured by shaking prior to the 28th, the earlier shaking would not have resulted in her condition as observed on the 29th.

Robert Walling, a physician at Lebonheur Children’s Hospital in Memphis and member of the pediatric faculty, testified that his primary responsibility was the evaluation of allegations of child abuse as a member of the hospital’s child protection team. Dr. Walling testified that approximately one child per month came to him exhibiting signs of SBS, and he had evaluated well over one hundred cases in the past eight to ten years. Dr. Walling’s published works included various articles on child abuse, and one of them specifically concerned retinal hemorrhaging as a result of SBS.

Dr. Walling testified that he was asked to consult on Jada’s case when she arrived at Lebonheur Hospital. At that time Jada was on life support and in very critical condition. She had a number of injuries, in particular, a “bleed” in the central nervous system, retinal hemorrhages, and a very fresh rib fracture. Based on Jada’s condition and the medical reports, the consensus of the doctors at Lebonheur was that Jada’s injuries resulted from SBS caused by an injury on the 29th. There were two primary bases for this conclusion. First, the changes that typically resulted from severe shaking—the disruption of the soft brain tissue—were immediate. Jada’s condition on the 28th was relatively normal, however. She showed no signs of neurological impairment until the 29th. Secondly, the doctors considered Jada’s CT scans. Lebonheur Hospital had conducted a second CT scan on Jada only hours after the scan at Jackson General Hospital was performed. The second scan showed marked changes from the first. If the injuries had occurred as many as six to twelve hours prior to the initial scan, the results would have been visible at that time. They were not. Dr. Walling testified that, although it was possible that Jada was shaken prior to the 28th, in his opinion the earlier shaking would not account for the severity of the injuries observed on the 29th. Dr. Walling further testified that Jada’s injuries were not caused by a one-time shaking or “tossing” in the air. The force necessary to cause SBS would have to be significant. Other factors supporting the doctors’ diagnosis included Jada’s fresh rib fracture and the fact that Jada’s retinal hemorrhages were judged to be “less than a few days old.”

Dr. Walling testified that the hospital clinic continued to treat Jada and that she was then able to breathe on her own. (At the time of trial, Jada was approximately three years and eight months old.) She had numerous seizures daily, however, and was not able to walk or talk. Not conscious

of her surroundings, she also did not understand the spoken word and was partially or completely blind. For all practical purposes, Jada was in a vegetative state and required constant therapy to keep her joints loose. She also required numerous medications daily to control her seizures. All of these conditions were attributable to SBS. Although her seizures were controlled with medications, the brain damage and blindness were irreversible. Jada would never walk, attend school, learn, or regain normal control of her bowel and urinary functions. Furthermore, her developmental stage would never exceed that of a one-year-old child.

Donna Turner testified that in January of 1996 she worked for the Jackson Police Department as a criminal investigator. Turner was assigned Jada's case when the Department of Children's Services contacted the police department. During her investigation, she spoke with Jada's mother and Defendant. Defendant cooperated freely and voluntarily in the investigation. When Turner completed her questioning of Defendant, she reduced her conversation with him to a written statement which Defendant reviewed. He was given a chance to correct and edit the statement, if necessary, before he formally adopted it with his signature. Turner testified that statements of this type were standard operating procedure in most criminal investigations.

Turner was asked to read Defendant's statement in court. It stated, inter alia, that Jada had not been feeling well for about a week prior to going to the hospital. When Jada continued to vomit for a couple of days, Defendant and Jada's mother took Jada to the hospital. Defendant stated that he was undergoing a rehabilitation program for marijuana dependency and that he had been stressed out during the week that Jada was sick. Defendant came home after Jada's first visit to the hospital on the 28th with a migraine and went immediately to bed. The next morning, Defendant still had his headache. He got up at 7:00 a.m. At 9:00 a.m., Jada awoke and started "screaming at the top of her lungs." Defendant tried to calm her down. He gave her medicine and checked her diaper, but she kept crying and spit up green stuff on his pants. He "felt like [his] world was caving in on [him]" and set her down on the couch. Next, Defendant grabbed Jada "real fast on both sides of her torso with both of [his] hands" and began to pat her on the back trying to burp her. He also "tossed her a couple of times in the air" to get her to stop crying. It did not work. She was still "raising cane." Defendant tried to burp her again but stopped when "she made a funny noise." Jada had "popped backwards and fell limp [like] a rag doll." When Defendant realized Jada was not moving, he shouted for Stacy to get up. They dialed 911. Defendant gave Jada artificial respiration at the direction of the 911 emergency personnel. Defendant claimed that he had not smoked any marijuana that day and he did not drink any alcoholic beverages. He also stated that he would never intentionally hurt anyone. Defendant stated that he was feeling really stressed about giving up marijuana and "everything just fell on [him] at once."

Dr. Allison Brent testified that she was a licensed pediatric physician and the director of the pediatric emergency room at All Children's Hospital in Tampa, Florida. As director, Dr. Brent performed administrative duties but also treated children. The emergency room at All Children's Hospital saw approximately one abused child per month. Before Dr. Brent accepted her current position as director at All Children's Hospital, she served as medical director of the child protection team at Tampa General Hospital for three years. As part of her duties there, she was responsible for

severely abused children in all of the hospitals located in that county. Dr. Brent testified that one of her concerns was that adult emergency rooms usually treated pediatric patients as “small adults.” She asserted that pediatric patients have different needs and requirements than adults. A common error was the misdiagnosis of SBS. Early symptoms were difficult to detect. Consequently, the signs were easily overlooked or attributed to some other disease process.

Dr. Brent testified that she was very familiar with the research and literature concerning SBS. Dr. Brent also testified that she reviewed Jada’s medical records from both Jackson General Hospital and Lebonheur Children’s Hospital at the request of Defendant’s counsel. According to Jada’s records, her retinal hemorrhages were estimated to be one to three days old, but this condition was quite difficult to date with accuracy. Additionally, Dr. Brent found no indication that Jada had a rib fracture. The doctors had performed two x-rays and a bone scan. In Dr. Brent’s opinion, however, a bone scan was superior diagnostically to an x-ray and Jada’s bone scan showed no fracture. Nor was Jada suffering from a flu virus on the 28th, because the records showed that the fever and diarrhea required to substantiate such a diagnosis were not present. Furthermore, Jada was not dehydrated according to Dr. Brent’s interpretation of the medical charts. Jada showed only a one percent reduction in weight when compared with a reading taken two days previously. Dehydration technically occurred when the child’s weight loss reached three to five percent. Dr. Brent admitted that Jada’s pulse was higher than normal which could have indicated dehydration. But, if Jada was truly dehydrated her pulse would have returned to normal when the hospital gave her fluids. It did not. Instead, her pulse kept rising which exacerbated her condition. In Dr. Brent’s opinion, the lack of diarrhea and fever considered together with the vomiting and increase in pulse due to hydration should have been a “red flag” to the medical personnel.

In sum, Dr. Brent concluded that when Jada reported to Jackson General Hospital on January 28th she was already clearly suffering from SBS. In other words, Dr. Brent agreed with Dr. Walling’s ultimate conclusion that Jada’s condition was caused by SBS, but differed where the timing of the injury was concerned. In Dr. Brent’s opinion, all of the evidence—the vital signs, ophthalmology results, history of vomiting—clearly pointed to an injury on the 28th or earlier. Moreover, the relaxant given Jada was not intended for babies and probably masked Jada’s symptoms, making a correct diagnosis even more difficult until she returned on the 29th. Dr. Brent was also asked what she thought might have caused the other doctors to be misled when dating the injury. Dr. Brent responded that, contrary to the doctors at the scene, she was able to function as an “outside observer” and, as such, she had the benefit of examining the facts in an atmosphere that was not emotionally charged. She asserted that because she was able to be objective, she was able to look at the numbers and evaluate them correctly.

Stacy Coffman, Jada’s mother, testified that Jada’s birth was difficult. Jada was born more than two months premature, weighing only two pounds and three ounces. After her birth, Jada spent a month in the neonatal center at the hospital before she was able to come home. She weighed only three pounds. The only other unusual thing about Jada related to her sleeping habits. Jada had gradually begun to sleep for longer and longer periods of time. Currently, Jada was sleeping six to eight hours at a time. Coffman would often have to wake her to feed her.

Coffman testified that on Thursday in the week preceding January 28th, Jada became ill. Jada spent Thursday with Coffman's mother and stepfather, then Jada accompanied Defendant when he picked Coffman up from her workplace at 2:00 a.m. When they arrived at home, Jada began to throw up violently after Coffman tried to feed her. Coffman testified that Jada had never been this sick before. Her condition persisted throughout the day Friday. Coffman spoke with a nurse Friday night who advised her to give Jada a liquid called Pedialyte to prevent dehydration. Jada seemed to improve on Saturday but by Sunday, the 28th, she was vomiting again so Defendant and Coffman took her to the emergency room at the hospital.

Coffman testified that during the six hours Jada was at the hospital on the 28th, Coffman saw Dr. Pangbourne only once or twice. Dr. Pangbourne requested a blood test and instructed the nurse to give Jada fluids. The remainder of the time, Coffman and Defendant waited in a room with Jada. Before Jada was discharged, the doctor gave Coffman a prescription and more Pedialyte. Coffman and Defendant filled the prescription and took Jada home. Jada fell asleep, but woke up and started crying again at approximately 1:45 a.m. Coffman gave her some medicine and rocked her back to sleep by 3:00 a.m. The next thing Coffman heard was Defendant screaming her name at about 10:15 a.m. He yelled, "Stacy, wake up. Call 911. Something is wrong with Jada." Coffman ran to the living room. Defendant was laying Jada on the couch, attempting to arouse her and calling her name. Coffman dialed 911 and was advised to lay Jada on the floor and administer CPR. Defendant performed CPR on Jada as directed by the 911 emergency personnel.

Coffman testified that the emergency ambulance arrived three minutes after she called. The paramedics placed something down Jada's throat and took her back to the hospital. Defendant and Coffman followed. Approximately forty-five minutes later they noticed the arrival of social workers and policemen. Then they saw Dr. Pangbourne again. He informed them that Jada was a victim of SBS. After Coffman signed release papers to airlift Jada to Lebonheur Hospital in Memphis, they went home to pack for the drive to Lebonheur. Coffman and Defendant rented a room close to the hospital to be near Jada. When Defendant was arrested and taken to Jackson, Coffman paid his bail and they returned to Lebonheur afterward. Other than the time Defendant spent in jail, he never left Jada's side.

Coffman testified that she met Defendant in September of 1995. Jada was two months old at the time. Although Defendant was not Jada's father, Coffman believed that he loved Jada and Jada loved him. Defendant was wonderful with her, and Jada would smile and "coo" whenever she heard his voice. Coffman testified that she never once observed Defendant behaving inappropriately with Jada. Defendant was always calm and never violent, no matter the circumstances. Coffman claimed to believe with all her heart that Defendant did not harm her child. At the time of trial, Coffman and Defendant had been together four years.

William Boggs, the defendant, testified that he and Coffman had started dating in September of 1995. For three months, Defendant saw Jada and Coffman every day. At the end of that time, Defendant asked Coffman and Jada to live with him. Defendant assumed that one day they would get married and that Jada would be his daughter. Defendant claimed that he loved Jada.

Defendant testified that, since both Defendant and Coffman worked, Jada was taken care of by many different people during the day. Specifically, Defendant's parents, Coffman's mother and stepfather, Coffman's grandmother, and Coffman's sister all took care of Jada at various times. The only unusual thing that Defendant had noticed about Jada concerned her sleeping habits. Jada slept soundly and for long periods of time—twelve to fourteen hours if one did not wake her.

Defendant also testified that, on the Thursday that Jada first became violently ill, Jada had spent the day with Coffman's mother and stepfather. Later that evening, Defendant picked Jada up on his way to give Coffman a ride home after work. When he arrived at Coffman's workplace Coffman's manager wanted to see Jada, but when they removed Jada from the car "she threw up all over." Jada had been a little irritable that night, but this was the first time she had vomited. She continued getting sick for the next twelve hours. Saturday morning Jada seemed to feel a little better, but by that evening she was quite irritable and sick again. Jada was progressively getting worse, so they took her to the emergency room on Sunday, the 28th.

Defendant testified that when Coffman and Defendant arrived at the emergency room at Jackson General Hospital, Dr. Pangbourne saw Jada for a few minutes. The doctor ordered a blood test and left. About an hour and a half later, the nurse came back and took Jada into another room to administer fluids intravenously. Dr. Pangbourne saw Jada only twice and for a total of five to ten minutes. After Jada was discharged, they picked up the medicine prescribed for her and took her home. Defendant had a migraine headache and went to bed. Coffman stayed up with Jada.

Defendant testified that he woke up at approximately 7:00 a.m. the next morning. Jada slept until around 9:00 a.m. When Jada awoke, Defendant changed her diaper which was dry. Next he tried to give her some medicine and feed her. She would not eat. Jada was very fussy and vomited again. Defendant tried to play with her. Defendant testified that Jada used to like a game where Defendant made "woo, woo" noises as he moved her up and down. On Sunday morning, however, Jada did not like this game. She cried even louder. When Defendant sat Jada back down, she vomited again. Defendant cleaned it up. Jada was "crying and crying, raising cane basically." Defendant reached down, picked her up, and put her on his left shoulder. He claimed that he did not shake her, but he did pick her up quickly. At this point, Jada made a "funny noise" and fell backward. Her arms, legs, and head fell "totally limp." Defendant yelled for Coffman. Jada was not breathing regularly, but gasping every ten or fifteen seconds. Coffman dialed 911 while Defendant sat back down on the couch and tried gently rubbing Jada to elicit a response. On the advice of the 911 operator, Defendant began to administer infant CPR. The paramedics arrived a few minutes later.

Defendant testified that at 10:00 Sunday evening Defendant agreed to meet with Turner, a criminal investigator for the Jackson Police Department. Turner and another woman asked Defendant questions. He responded while Turner took notes. Defendant testified that he did not recall whether it was he or Turner who used the word "tossed" to describe the Defendant's movement as he played the "woo, woo" game with Jada. Although Defendant's statement indicated that he "tossed" her, Defendant claimed that, in fact, Jada never left his hands when they played.

Defendant told Turner that he felt responsible for Jada's condition because it happened while Jada was with him. Everyone told him that he caused her condition. Defendant admitted that he picked Jada up quickly, but testified that he never shook her violently or abused her in any way. Defendant also admitted that he was stressed and a little flustered on the 29th. Defendant told Turner that he felt as though the "world was caving in on [him]" that morning.

Marilyn Boggs, Defendant's mother, testified that Defendant and Coffman lived together in an apartment in the basement of her house. Defendant had always been a very happy and polite child. As an adult, children loved to spend time around Defendant. With Jada, Defendant was a very loving caretaker, always kind and gentle. He spent a lot of time holding her and singing to her. To her knowledge, "[Defendant] has never hurt a living thing."

Steven Craig Shytles, an acquaintance of Defendant's, testified that he met Defendant six years prior to trial when they worked together at the same motel. Shytles recalled when Defendant started dating Stacy Coffman. Since that time, Defendant frequently brought Jada to Shytles' home so that their children could play together. Shytles testified that Defendant always behaved like a father with Jada, and Shytles never observed Defendant behaving inappropriately with her. In Shytles' opinion, Defendant was a "real laid back person" and was always gentle around children. Shytles claimed that if this were not so, he would not have allowed Defendant into his house.

II. Sufficiency of the Evidence

Defendant contends that the evidence submitted at trial was insufficient to support his conviction for aggravated child abuse. Defendant argues that since the evidence against him was largely circumstantial, the testimony of the experts was critically important to the outcome of the case and, because the testimony of the State's experts was apparently aimed toward convicting him, it was sufficiently biased so that this Court has no alternative but to set aside his conviction. We disagree.

Where the sufficiency of the evidence is contested on appeal, the relevant question for the reviewing court is whether any rational trier of fact could have found the accused guilty of every element of the offense beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789, 61 L.Ed.2d 560, 573 (1979). In determining the sufficiency of the evidence, this Court does not reweigh or reevaluate the evidence. State v. Cabbage, 571 S.W.2d 832, 835 (Tenn. 1978). Nor may this Court substitute its inferences for those drawn by the trier of fact from circumstantial evidence. Liakas v. State, 286 S.W.2d 856, 859 (1956). To the contrary, this Court is required to afford the State the strongest legitimate view of the evidence contained in the record as well as all reasonable and legitimate inferences which may be drawn from the evidence. State v. Tuttle, 914 S.W.2d 926, 932 (Tenn. Crim. App. 1995). The credibility of the witnesses, the weight to be given their testimony, and the reconciliation of any conflicts in the evidence are matters entrusted exclusively to the jury as the trier of fact. State v. Bland, 958 S.W.2d 651, 659 (Tenn. 1997); State v. Cazes, 875 S.W.2d 253, 259 (Tenn. 1994). Since a verdict of guilt removes the presumption of a defendant's innocence and replaces it with a presumption of guilt, the defendant has the burden of

proof on the sufficiency of the evidence at the appellate level. State v. Tuggle, 639 S.W.2d 913, 914 (Tenn.1982).

Under Tennessee law, “[a] person commits the offense of aggravated child abuse or aggravated child neglect who commits the offense of child abuse or neglect as defined in Section 39-15-401 and . . . [t]he act of abuse or neglect results in serious bodily injury to the child” Tenn. Code Ann. § 39-15-402(a)(1) (1997). Tennessee Code Annotated section 39-15-401(a) defines the offense of child abuse as “[a]ny person who knowingly, other than by accidental means, treats a child under eighteen (18) years of age in such a manner as to inflict injury or neglects such a child so as to adversely affect the child's health and welfare” Id. § 39-15-401(a)(1997).

The evidence in this case, when viewed in the light most favorable to the State, established that Jada was under Defendant’s care when her condition noticeably worsened. Defendant admitted that Jada was in his arms when she suddenly went limp and almost stopped breathing. Moreover, Defendant handled Jada in manners which could reasonably be construed as inappropriate for a five-month-old prematurely born infant.

In his brief, Defendant asserts that the evidence in his case could “fairly be described as a battle of the experts.” This appraisal is correct, but opposing experts with differing opinions are not an unusual occurrence in criminal cases. Here, the record reveals that both experts, Dr. Walling and Dr. Brent, have had extensive experience with pediatric patients. Both expert witnesses also ultimately agreed that Jada’s condition was caused by SBS. On other points, however, the testimony of the witnesses diverged, which led them to come to different conclusions regarding exactly when the causative injury occurred. This case rests on this timing issue.

According to the record, Dr. Walling and Dr. Brent maintained opposing views regarding the timing of Jada’s injury in spite of the fact that they used the same records and similar factors to develop their individual diagnoses. One factor common to both conclusions was the evidence concerning Jada’s rib fracture. Dr. Walling relied on x-ray evidence to conclude that Jada’s rib was fractured, notwithstanding the fact that a bone scan performed seven days later showed no evidence of fracture. Dr. Walling testified that technical difficulties inherent in bone scans along with the fact that there was often no consistency between different individuals’ evaluations of a bone scan made the procedure unreliable for diagnostic purposes. By contrast, Dr. Brent testified that bone scans embodied the best technology available for diagnosing fractures. For this reason, Dr. Brent chose to rely on the bone scan in lieu of the x-rays when she concluded that Jada’s rib was not fractured.

Both experts also considered the differences between the medical reports of Jada’s condition as reported on the 28th and 29th of January. Dr. Walling considered the marked contrast in Jada’s condition between the 28th and 29th to be conclusive evidence that Jada was shaken within hours of her second visit. In arriving at his conclusion, Dr. Walling considered Jada’s pulse rates and the fact that the state of her fontanel on the 28th was not abnormal. Moreover, Dr. Walling testified that giving her fluids on the 28th was a precautionary measure and that she left the emergency room that day “in good shape” according to her vital signs. Contrary to Dr. Walling’s conclusion, Dr. Brent

testified that Jada's condition on the 28th waved "red flags" requiring further investigation. Specifically, the lack of diarrhea and fever considered together with Jada's constant vomiting and the fact that giving her fluids increased her pulse instead of reducing it indicated that Jada had a serious problem. Dr. Brent testified that giving Jada fluids actually worsened her condition. Moreover, Dr. Brent opined that Jada's pulse on the 28th was not normal but "high for a baby of that age." In Dr. Brent's opinion, the medical findings on the 28th clearly indicated signs of SBS.

Drs. Walling and Brent also differed in their interpretations of the report evaluating the presence of retinal hemorrhages in Jada's eyes. The pediatric ophthalmologist stated in his report that the white spots observed in Jada's hemorrhages indicated that they were "less than a few days old." Underneath the ophthalmologist's notation, an additional comment estimated the hemorrhages to be "one to three days old." Dr. Walling considered the report to be consistent with his opinion that Jada's injury occurred earlier that same day. In support of his conclusion, Dr. Walling explained that when pictures are taken of "bleeds" in the eye, the images often show white centers inside of the blood clots. This is one method used to determine the type and/or timing of the causative injury. However, to be used for this purpose, the pictures must be taken within one to three days of the injury that caused the hemorrhage because the white spots disappear after 72 hours. For this reason, medical evaluations of retinal hemorrhages containing white spots often state that the hemorrhages are "one to three days old." Conversely, Dr. Brent believed that the pediatric ophthalmologist's report was compatible with her conclusion because, underneath the ophthalmologist's notation (that the white spots were "less than a few days old"), another comment stated that the hemorrhages were "one to three days old." The second comment was written by a different doctor, not the doctor in charge of the evaluation. Notwithstanding, Dr. Brent disagreed with Dr. Walling's contention that the second comment merely reiterated the first, believing instead that it supported her determination that Jada's symptoms initially occurred on the 28th or, possibly, even three days earlier on the 26th.

The experts were nearly diametrically opposed in their opinion as to when the injury occurred, yet both seem equally convinced that the evidence in this case supported their particular conclusions. The record shows that both experts are highly qualified and experienced and does not support Defendant's assertion that the State's expert witness was biased. The duty of this Court is not to choose which witness may be the more credible, but to decide whether the evidence is sufficient so that any rational trier of fact could have found the accused guilty of every element of the offense beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789, 61 L.Ed.2d 560, 573 (1979). The credibility of the witnesses, the weight to be given their testimony, and the reconciliation of any conflicts in the evidence are matters entrusted exclusively to the jury as the trier of fact. State v. Bland, 958 S.W.2d 651, 659 (Tenn. 1997); State v. Cazes, 875 S.W.2d 253, 259 (Tenn. 1994). We conclude that the evidence was sufficient for a rational jury to find that Defendant knowingly, other than by accidental means, treated Jada in such a manner as to cause serious bodily injury according to Tenn. Code Ann. § 39-15-402. Defendant is not entitled to relief on this issue.

III. Conclusion

After a thorough review of the record, the judgment of the trial court is AFFIRMED.

THOMAS T. WOODALL, JUDGE